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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: RIOUX

Examiner: Chapman

Application No.: 10/814,234

Group Art Unit: 3635

Filed: April 1, 2004

Docket: 62-335

For: Modular Tower Structure

Dated: January 28, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

PETITION TO WITHDRAW IMPROPER NOTICE OF ABANDONMENT

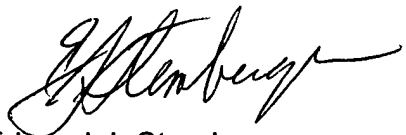
Sir:

Applicant hereby petitions to withdraw the Notice of Abandonment mailed on January 28, 2008 as being improper since a timely Amendment (copy attached) was filed by the Applicant on July 20, 2007 in response to the June 26, 2007 Office Action. A copy of the USPTO stamped Receipt is enclosed showing that the Office received the July 20, 2007 Amendment.

Since the Applicant timely responded to the Office Action, the Notice of Abandonment is improper and should be withdrawn.

Furthermore, since a USPTO error resulted in abandonment, Applicant submits that no fee is due. If a fee is due, please charge the fee to Deposit Account 50-0687 under Order No. 62-335 and consider this Petition.

Respectfully submitted,



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Customer No. 20736

RECEIPT FROM PTO FOR INDICATED ITEMS

(Do NOT Use for New or Continuing Applications of Any Kind)
Use 2 postcards for all New Applns. (Cont/Div/CIP, too)

Appln. No: 10/814,234	Attny: Ed Stemberger MD&S
First Inventor: Rioux	Date: July 20, 2007
	Matter No: 62-335
	Client No:

ENCLOSED:

[X] Amendment [ ] Cover Sheet [ ] Cited/Listed Documents

[ ] Completion Request for R 53(f)

[ ] No. of Pages Abstract

[ ] No. of Pages Spec and Claims

[ ] No. of Numbered Claims Only

[ ] No. of Sheets of Drawings

[ ] 1Set informal [ ] Replacement sheets [ ] Cover Letter

[ ] Declaration [ ] # of pages

[ ] Assignment [ ] Cover Sheet

[ ] Extension Petition

[ ] No. of Priority Documents

[ ] IDS including PTO-1449

[ ] Foreign Docs [ ] Search Report & Opinion

[ ] Issue Fee Transmittal Form PTOL-85(b) + (c)

$ [0] Fee (Check)

OTHER [ ]

Current DUE DATE [September 26, 2007]

(Submit Single Copy Only)

MDS Form: PTO/SB/17 (1/06)

REPLY / AMENDMENT FEE TRANSMITTAL

Attorney Docket No.	62-335
Application Number	11/814,234
Filing Date	April 1, 2004
First Named Inventor	Rioux
Group Art Unit	3635
Examiner Name	Chapman

AMOUNT ENCLOSED	$0

FEE CALCULATION (fees effective 11/29/06)

CLAIMS AS AMENDED	Claims Remaining After Amendment	Highest Number Previously Paid For	Number Extra	Rate	Calculations
TOTAL CLAIMS	18 (1)	20 (2) =	(3)	X $50.00 =	$ 0
INDEPENDENT CLAIMS	6 (4)	6 (5) =	(6)	X $200.00 =	$ 0

Since an Official Action set an original due date of September 26, 2007, petition is hereby made for an extension to cover the date this reply is filed for which the requisite fee is enclosed (1 month ($110); 2 months ($390); 3 months ($890); 4 months ($1,390); 5 months ($1,890)):	0
If Statutory Disclaimer under Rule 20(d) is enclosed, add fee ($110)	
Total of above Calculations =	$0
Reduction by 50% for filing by small entity (37 CFR 1.9, 1.27 & 1.28)	
TOTAL FEES DUE =	$0

(1) If entry (1) is less than entry (2), entry (3) is "0".
(2) If entry (2) is less than 20, change entry (2) to "20".
(4) If entry (4) is less than entry (5), entry (6) is "0".
(5) If entry (5) is less than 3, change entry (5) to "3".

METHOD OF PAYMENT

[ ] Check enclosed as payment.
[ ] Charge "TOTAL FEES DUE" to the Deposit Account No., below.

AUTHORIZATION

[ ] If the above-noted "AMOUNT ENCLOSED" is not correct, the Commissioner is hereby authorized to credit any overpayment or charge any additional fees under 37 CFR 1.16 or 1.17 necessary to maintain pendency of the present application to:

	Deposit Account No.	50-0687	under order No. 62-335
	Deposit Account Name	Manelli Denison & Selter	

SUBMITTED BY: **Customer No. 20736**

Typed Name	Edward J. Stemberger	Reg. No.	36,017
Signature		Date	July 20, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: RIOUX

Examiner: Junker, J.

Application No.: 10/814,234

Group Art Unit: 3635

Filed: April 1, 2004

Docket: 62-335

For: Modular Tower Structure

Dated: July 20, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

AMENDMENT

Sir:

In response to the Official Action of June 26, 2007, please consider the following amendments and remarks.

Claim Amendments begin on page 2.

Remarks begin on page 9.

IN THE CLAIMS:

1. (Canceled)

2. (Previously Presented) A fitting constructed and arranged to retain a plurality of accessory members to a vertical structural unit which unit has a plurality of vertical sides wherein each side has a portion defining a side aperture; said fitting comprising

(i) a body;

(ii) a body plate member attached to said body and constructed and arranged to be cooperable with a said side of said structural unit and receivable in intimate engagement within said side aperture, the body plate member being of a size smaller than the body so that only the body plate member can be received in said side aperture;

(iii) attachment means constructed and arranged to attached said fitting to said structural unit with said body plate member received within side aperture; and

said body having a portion defining at least one accessory-receiving means constructed and arranged to retain said accessory member to said body,

the fitting being in combination with said structural unit, wherein said body plate member is received within said side aperture of said structural unit, and wherein said side aperture has an essentially circular shape, and has a plurality of inwardly protruding side portions, and wherein each of said side portions defines a bolt-receiving aperture.

3. (Previously Presented) A combination as defined in claim 2 wherein said side aperture has a shape defined as an extended oval having a vertical axis length greater than its horizontal axis, and having four inwardly protruding symmetrically-opposed portions.

4. (Previously Presented) A combination as defined in claim 2 wherein said plate member is integrally formed with said body.

5. (Previously Presented) A fitting constructed and arranged to retain a plurality of accessory members to a vertical structural unit which unit has a plurality of vertical sides wherein each side has a portion defining a side aperture; said fitting comprising

(iv) a body;

(v) a body plate member attached to said body and constructed and arranged to be cooperable with a said side of said structural unit and receivable in intimate engagement within said side aperture, the body plate member being of a size smaller than the body so that only the body plate member can be received in said side aperture;

(vi) attachment means constructed and arranged to attached said fitting to said structural unit with said body plate member received within side aperture; and

said body having a portion defining at least one accessory-receiving means constructed and arranged to retain said accessory member to said body,

wherein said attachment means comprises a plurality of bolt-receiving apertures defined by portions of said body or said plate member, operably alignable with said bolt-receiving apertures of said side portion.

6. (Previously Presented) A fitting as defined in claim 5 wherein said body has at least one protruding member having a portion defining an accessory bolt-receiving aperture.

7. (Previously Presented) A fitting constructed and arranged to retain a plurality of accessory members to a vertical structural unit which unit has a plurality of vertical sides wherein each side has a portion defining a side aperture; said fitting comprising

(vii) a body;

(viii) a body plate member attached to said body and constructed and arranged to be cooperable with a said side of said structural unit and receivable in intimate engagement within said side aperture, the body plate member being of a size smaller than the body so that only the body plate member can be received in said side aperture;

(ix) attachment means constructed and arranged to attached said fitting to said structural unit with said body plate member received within side aperture; and

said body having a portion defining at least one accessory-receiving means constructed and arranged to retain said accessory member to said body,

wherein said body has a plurality of said protruding members each having a portion defining an accessory bolt-receiving aperture.

8. (Previously Presented) A fitting constructed and arranged to retain a plurality of accessory members to a vertical structural unit which unit has a plurality of vertical sides wherein each side has a portion defining a side aperture; said fitting comprising

(x) a body;

(xi) a body plate member attached to said body and constructed and arranged to be cooperable with a said side of said structural unit and receivable in intimate engagement within said side aperture, the body plate member being of a size smaller than the body so that only the body plate member can be received in said side aperture;

(xii) attachment means constructed and arranged to attached said fitting to said structural unit with said body plate member received within side aperture; and

said body having a portion defining at least one accessory-receiving means constructed and arranged to retain said accessory member to said body,

wherein said body comprises

(a) a first protruding plate having a portion defining a first plate aperture;

(b) when said fitting is operably retained to said structure, a first horizontally protruding plate and a second horizontally protruding plate parallel to and at a distance from said first horizontal protruding plate to define an interplate open channel; and wherein (i) said first horizontal protruding plate has a plurality of portions defining a plurality of apertures, and (ii) said second horizontal protruding plate has a portion defining at least one aperture, a proximal first side wing having a portion defining a first wing aperture and a distal second side wing having a portion defining a second wing aperture; and

(c) an interplate strengthening portion between said first and second horizontally protruding plates.

9. (Original) A fitting as defined in claim 8 wherein when said fitting is operably attached to said structure,

(i) said first protruding plate is a vertically protruding upper plate;

(ii) said first horizontally protruding plate is below said vertically protruding plate and above said second horizontally protruding plate; and

(iii) said proximal and distal wings are downwardly pointing.

10. (Original) A fitting as defined in claim 9 wherein said body further comprises a lower vertical plate member having a portion defining a vertical plate member aperture below said second horizontal plate.

11. (Previously Presented) A fitting as defined in claim 5 of a unitary, integral form.

12. (Previously Presented) A fitting constructed and arranged to retain a plurality of accessory members to a vertical structural unit which unit has a plurality of vertical sides wherein each side has a portion defining a side aperture; said fitting comprising

(xiii) a body;

(xiv) a body plate member attached to said body and constructed and arranged to be cooperable with a said side of said structural unit and

receivable in intimate engagement within said side aperture, the body plate member being of a size smaller than the body so that only the body plate member can be received in said side aperture;

(xv) attachment means constructed and arranged to attached said fitting to said structural unit with said body plate member received within side aperture; and

said body having a portion defining at least one accessory-receiving means constructed and arranged to retain said accessory member to said body,

wherein the fitting is adapted to receive in fitting engagement by at least one of said apertures at least one accessory selected from the group consisting of a guy rope, electrical insulator, dish and platform.

13. (Canceled)

14. (Currently Amended) A modular unit constructed and arranged to define a tower comprising a four-sided rectangular box-like structure wherein each side has a planar ~~portions~~ portion defining at least one side aperture there-through, ~~wherein said aperture has an essentially circular shape and the planar portion defines a plurality of side portions protruding inwardly into the at least one side aperture and wherein each of said side portions defines a bolt receiving aperture through the planar portion,~~

wherein said side aperture has a shape defined as an extended oval having a vertical axis greater than its horizontal axis ~~when said unit is operably constructed in said tower~~ and each surface defining the side aperture has ~~having~~ four ~~inwardly protruding~~ symmetrically opposed side portions coplanar with the planar portion and protruding inwardly into the side aperture, and wherein each of said side portions defines ~~define a bolt receiving~~ an aperture constructed and arranged to receive a bolt.

15. (Previously Presented) A modular unit as defined in claim 14 having a width of 46±1 cm, a breadth of 46±1cm and a length or height selected from 2.0-2.5 m.

16. (Previously Presented) A modular unit as defined in claim 14 wherein each of said sides comprises two of said apertures.

17. (Previously Presented) A tower structure comprising

(i) a plurality of modular units, each unit comprising a four-sided rectangular box-like structure wherein each side has portions defining at least one side aperture with side portions protruding into the aperture, and each of said side portions defining a fastener-receiving aperture;

(ii) a plurality of fittings retained to said modular units, each fitting comprising

a body;

a body plate member attached to said body and received in intimate engagement within said side aperture,

attachment means cooperable with the fastener-receiving means to permit attaching of said fitting to said unit with said body plate member received within side aperture; and

said body having a portion defining at least one accessory-receiving means constructed and arranged to retain said accessory member to said body; and

(iii) accessory members selected from the group consisting of guy ropes, insulators, dishes and platforms connected to said accessory-receiving means.

18. (Previously Presented) A structure as defined in claim 17 wherein said side aperture has a shape defined as an extended oval having a vertical axis length greater than its horizontal axis, and having four inwardly protruding symmetrically-opposed side portions.

19. (Previously Presented) A structure as defined in claim 17 wherein said plate member is integrally formed with said body.

20. (Previously Presented) A structure as defined in claim 17 wherein said body comprises

(a) a first protruding plate having a portion defining a first plate aperture;

(b) when said fitting is operably retained to said structure, a first horizontally protruding plate and a second horizontally protruding plate parallel to and at a distance from said first horizontal protruding plate to define an interplate open channel; and wherein (i) said first horizontal protruding plate has a plurality of portions defining a plurality of apertures, and (ii) said second horizontal protruding plate has a portion defining at least one aperture, a proximal first side wing having a portion defining a first wing aperture and a distal second side wing having a portion defining a second wing aperture; and

(c) an interplate strengthening portion between said first and second horizontally protruding plates.

REMARKS

Reconsideration and allowance are respectfully requested. Claim 14 has been amended. Claims 2-12 and 14-20 remain pending.

The allowance of claims 2-12 and 17-20 is noted with thanks.

Claim 14 stands rejected under 35 U.S.C. 112, second paragraph. The claim has been amended and is considered to be in full compliance with 35 U.S.C. 112. Therefore, the rejection should be withdrawn.

Claims 14 and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Lange. Claim 14 has been amended to define the invention more clearly and thus, obviate the rejection. In particular, claim 14 as amended recites that the side portions protrude inwardly into the side aperture and are coplanar with the planar portion. The aperture is constructed and arranged to receive a bolt. The side portions 30 having bolt-receiving apertures 32 is shown clearly in Fig. 3 of the specification.

The side portions 24/25 of Lange are on a plane different from a plane of portion 18. Furthermore, the notches 26 of Lange receive a detent 44 and are not constructed and arranged to receive a bolt. Furthermore, the side apertures of Lange are not oval as clamed.

Hence, the rejection should be withdrawn because Lange does not disclose each and every element of the claim. See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference which are vague or based on conjecture." *Studiengesellschaft Kohle mbH v. Dart Industries, Inc.*, 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), *aff'd.*, 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

Claim 15 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Lange. Claim 15 depends from claim 14 and is considered to be allowable for the reasons advanced above with regard to claim 14 and, for the additional reason, that the added subject matter thereof is not taught or suggested by Lange.

All rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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